

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK *ex rel.* TZAC, INC.

Plaintiff-Relator,

v.

NEW ISRAEL FUND,

Defendant.

No. 1:20-cv-2955-GHW

DECLARATION OF J. EMMETT MURPHY

J. Emmett Murphy hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an attorney with the law firm of King & Spalding LLP, which represents Defendant New Israel Fund (NIF) in the above-captioned action. I respectfully submit this Declaration in Support of NIF’s Motion to Dismiss the Amended Complaint [hereinafter Am. Compl. (Doc. 30)].

2. The Amended Complaint refers to or discusses events reported in the following documents, which are in the public domain and subject to the New York False Claims Act’s “public disclosure bar,” *see* N.Y. Fin. Law § 190(9)(b):

“A” Exhibits

3. **NIF “Financials”:** The *Financials* page of the NIF website, available at <https://www.nif.org/about/annual-report-financials/> which contains hyperlinks to NIF’s federal “Form 990” tax documents and NIF’s annual financial statements for years 2008 through 2018. A true and correct copy of the page is attached as Exhibit A1. *See* Am. Compl. ¶¶ 9–20 (Form 990s); *id.* ¶¶ 25, 28–31, 34 (NIF grants).

4. NIF 2018 Financial Report: New Israel Fund and Truth to Power Foundation's *Combined Financial Statements for the Year Ended December 31, 2018 with Summarized Financial Information for 2017*, which is available at

<https://www.nif.org/wp-content/uploads/2019/06/NIF-2018-Audited-Financial-Statements.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/reports/analysis-of-nif-2018-funding-for-31-political-advocacy-ngos/>

(see Ex. E2). A true and correct copy of the page is attached as Exhibit A2. See Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

5. NIF 2017 Financial Report: New Israel Fund's *Financial Statement for the Year Ended December 31, 2017 with Summarized Financial Information for 2016* (published June 2018), which is available at

<https://www.nif.org/wp-content/uploads/2018/06/NIF-2017-Audited-Financial-Statements.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/reports/analysis-of-nif-2017-funding-for-30-political-advocacy-ngos/>

(see Ex. E3). A true and correct copy of the document is attached as Exhibit A3. See Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

6. NIF 2016 Financial Report: New Israel Fund's *Financial Statements for the Year Ended December 31, 2016 with Summarized Financial Information for 2015* (published August 2017), which is available at

<https://www.nif.org/wp-content/uploads/2017/08/NIF-2016-Audited-Financial-Statements.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/reports/nif-2016-funding-for-political-ngos/>

(see Ex. E4). A true and correct copy of the document is attached as Exhibit A4. See Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

7. NIF 2015 Financial Report: New Israel Fund's *Financial Statements for the Year Ended December 31, 2015 with Summarized Financial Information for 2014* (published July 2016), which is available at

<https://www.nif.org/wp-content/uploads/2016/07/NIF-2015-Audited-Financial-Statements.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/reports/analysis-of-nif-2015-funding-for-25-political-advocacy-ngos/>

(see Ex. E5). A true and correct copy of the document is attached as Exhibit A5. See Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

8. NIF 2014 Financial Report: New Israel Fund's *Financial Statements for the Year Ended December 31, 2014 with Summarized Financial Information for 2013* (published August 2015), which is available at

<https://www.nif.org/wp-content/uploads/2015/08/NIF-2014-Audited-Financial-Statements.pdf>

and has been republished via hyperlink at

https://www.ngo-monitor.org/reports/changes_in_nif_grants_few_changes_in_demonization_funding/

(see Ex. E6). A true and correct copy of the document is attached as Exhibit A6. See Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

9. NIF 2013 Financial Report: New Israel Fund's *Financial Statements for the Year Ended December 31, 2013 with Summarized Financial Information for 2012* (published May 2014), which is available at

<https://www.nif.org/wp-content/uploads/2015/04/NIF-2013-Audited-Financial-Statements.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/ngos/mossawa/#funding>

(see Ex. E12). A true and correct copy of the document is attached as Exhibit A7. See Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

10. NIF 2012 Financial Report: New Israel Fund's *Financial Statements for the Year Ended December 31, 2012 with Summarized Financial Information for 2011* (published April 2013), which is available at

<https://www.nif.org/wp-content/uploads/2015/04/145741062-NIF-2012-Financial-Statements.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/ngos/mossawa/#funding>

(see Ex. E12). A true and correct copy of the document is attached as Exhibit A8. See Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

11. NIF 2011 Financial Report: New Israel Fund's *Financial Statements for the Year Ended December 31, 2011 with Summarized Financial Information for 2010* (published May 2012), which is available at

<https://www.nif.org/wp-content/uploads/2015/04/102967801-NIF-2011-Financial-Statements.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/ngos/mossawa/#funding>

(see Ex. E12). A true and correct copy of the document is attached as Exhibit A9. See Am. Compl.

¶¶ 25, 28–31, 34 (NIF grants).

12. NIF 2010 Financial Report: New Israel Fund’s *Financial Statements for the Year Ended December 31, 2010 with Summarized Financial Information for 2009* (published June 2011), which is available at

<https://www.nif.org/wp-content/uploads/2015/04/NIF-2010-Financial-Statements-Final.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/ngos/mossawa/#funding>

(see Ex. E12). A true and correct copy of the document is attached as Exhibit A10. See Am.

Compl. ¶¶ 25, 28–31, 34 (NIF grants).

13. NIF 2009 Financial Report: New Israel Fund and Signing Anew’s *Combined Financial Statements for the Year Ended December 31, 2009 with Summarized Financial Information for 2008* (published July 2010), which is available at

<https://www.nif.org/wp-content/uploads/2015/04/NIF-09-Combined-FS.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/ngos/mossawa/#funding>

(see Ex. E12). A true and correct copy of the document is attached as Exhibit A11. See Am.

Compl. ¶¶ 25, 28–31, 34 (NIF grants).

14. NIF 2008 Financial Report: New Israel Fund and Signing Anew’s *Combined Financial Statements for the Year Ended December 31, 2008 with Summarized Financial Information for 2007* (published June 2009), which is available at

<https://www.nif.org/wp-content/uploads/2015/04/nif-08-fs.pdf>

and has been republished via hyperlink at

<https://www.ngo-monitor.org/ngos/mossawa/#funding>

(see Ex. E12). A true and correct copy of the document is attached as Exhibit A12. See Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

“B” Exhibits

15. IRS Form 990 Downloads: The Internal Revenue Service (IRS) web page through which any member of the public can download Form 990 filings, including those of NIF. The page is available at

<https://www.irs.gov/charities-non-profits/form-990-series-downloads>

and a true and correct copy of the page is attached as Exhibit B1. See Am. Compl. ¶¶ 9–20 (Form 990s).

16. IRS Tax Exempt Organization Search: The IRS search database through which any member of the public can look up registered § 501(c)(3) charities, including NIF. The page is available at

<https://apps.irs.gov/app/eos/>

and a true and correct copy of the page is attached as Exhibit B2. See Am. Compl. ¶¶ 9–20 (Form 990s).

17. IRS Report of New Israel Fund: The page of the IRS’s “Tax Exempt Organization Search” database dedicated to NIF. The page is available at

<https://apps.irs.gov/app/eos/displayAll.do?dispatchMethod=displayAllInfo&Id=1413537&ein=942607722&country=US&deductibility=all&dispatchMethod=searchAll&isDescending=false&city=&ein1=&postDateFrom=&exemptTypeCode=al&submitName=Search&sortColumn=orgName&totalResults=1&names=New+Israel+Fund&resultsPerPage=25&indexOfFirstRow=0&postDateTo=&state=All+States>

and a true and correct copy of the page is attached as Exhibit B3. *See* Am. Compl. ¶¶ 9–20 (Form 990s).

“C” Exhibit

18. Charity Navigator Profile: An online profile on NIF maintained by the watchdog group “Charity Navigator.” The page is available at

<https://www.charitynavigator.org/index.cfm?bay=search.irs&ein=942607722>

and a true and correct copy of the page is attached as Exhibit C. *See* Am. Compl. ¶¶ 9–20 (Form 990s); *id.* ¶¶ 25, 28–31, 34 (NIF grants).

“D” Exhibits

19. ProPublica Profile: An online profile of NIF maintained by the watchdog group “ProPublica.” The page is available at

<https://projects.propublica.org/nonprofits/organizations/942607722>

and a true and correct copy of the page is attached as Exhibit D1. *See* Am. Compl. ¶¶ 9–20 (Form 990s); *id.* ¶¶ 25, 28–31, 34 (NIF grants).

20. NIF 2017 Form 990: New Israel Fund’s Form 990 for tax year 2017. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/12_2018_prefixed_94-95%2F942607722_201712_990_2018121816021402

and a true and correct copy is attached as Exhibit D2. *See* Am. Compl. ¶¶ 9–10.

21. NIF 2016 Form 990: New Israel Fund’s Form 990 for tax year 2016. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/01_2018_prefixed_92-94%2F942607722_201612_990_2018010415084429

and a true and correct copy is attached as Exhibit D3. *See* Am. Compl. ¶ 11.

22. NIF 2015 Form 990: New Israel Fund's Form 990 for tax year 2015. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/01_2017_prefixed_93-95%2F942607722_201512_990_2017011814088029

and a true and correct copy is attached as Exhibit D4. *See* Am. Compl. ¶ 12.

23. NIF 2014 Form 990: New Israel Fund's Form 990 for tax year 2014. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/2015_10_EO%2F94-2607722_990_201412

and a true and correct copy is attached as Exhibit D5. *See* Am. Compl. ¶ 13.

24. NIF 2013 Form 990: New Israel Fund's Form 990 for tax year 2013. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/2014_11_EO%2F94-2607722_990_201312

and a true and correct copy is attached as Exhibit D6. *See* Am. Compl. ¶ 14.

25. NIF 2012 Form 990: New Israel Fund's Form 990 for tax year 2012. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/2013_12_EO%2F94-2607722_990_201212

and a true and correct copy is attached as Exhibit D7. *See* Am. Compl. ¶ 15.

26. NIF 2011 Form 990: New Israel Fund's Form 990 for tax year 2011. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/2012_11_EO%2F94-2607722_990_201112

and a true and correct copy is attached as Exhibit D8. *See* Am. Compl. ¶ 16.

27. NIF 2010 Form 990: New Israel Fund's Form 990 for tax year 2010. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/2011_11_EO%2F94-2607722_990_201012

and a true and correct copy is attached as Exhibit D9. *See* Am. Compl. ¶ 17.

28. NIF 2009 Form 990: New Israel Fund's Form 990 for tax year 2009. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/2010_12_EO%2F94-2607722_990_200912

and a true and correct copy is attached as Exhibit D10. *See* Am. Compl. ¶ 18.

29. NIF 2008 Form 990: New Israel Fund's Form 990 for tax year 2008. In addition to being available through the NIF website (*see* Ex. A1) the document is available for viewing and download at

https://projects.propublica.org/nonprofits/display_990/942607722/2009_12_EO%2F94-2607722_990_200812

and a true and correct copy is attached as Exhibit D11. *See* Am. Compl. ¶ 19.

“E” Exhibits

30. NGO Monitor Profile: An online profile on NIF maintained by the watchdog group “NGO Monitor.” The page is available at

https://www.ngo-monitor.org/funder/new_israel_fund/

A true and correct copy of the page is attached as Exhibit E1. *See* Am. Compl. ¶¶ 9–20 (Form 990s); *id.* ¶¶ 25, 28–31, 34 (NIF grants).

31. An article by NGO Monitor entitled *Analysis of NIF 2018 Funding for 31 Political Advocacy NGOs* (August 7, 2019), available at

<https://www.ngo-monitor.org/reports/analysis-of-nif-2018-funding-for-31-political-advocacy-ngos/>

a true and correct copy of which is attached as Exhibit E2. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

32. An article by NGO Monitor entitled *Analysis of NIF 2017 Funding for 30 Political Advocacy NGOs* (July 16, 2018), available at

<https://www.ngo-monitor.org/reports/analysis-of-nif-2017-funding-for-30-political-advocacy-ngos/>

a true and correct copy of which is attached as Exhibit E3. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

33. An article by NGO Monitor entitled *Analysis of NIF 2016 Funding for 29 Political Advocacy NGOs* (April 15, 2018), available at

<https://www.ngo-monitor.org/reports/nif-2016-funding-for-political-ngos/>

a true and correct copy of which is attached as Exhibit E4. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

34. An article by NGO Monitor entitled *Analysis of NIF 2015 Funding for 25 Political Advocacy NGOs* (August 1, 2016), available at

<https://www.ngo-monitor.org/reports/analysis-of-nif-2015-funding-for-25-political-advocacy-ngos/>

a true and correct copy of which is attached as Exhibit E5. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

35. An article by NGO Monitor entitled *NIF Grants 2014: Few Changes in Demonization Funding* (August 20, 2015), available at

https://www.ngo-monitor.org/reports/changes_in_nif_grants_few_changes_in_demonization_funding/

A true and correct copy of the document is attached as Exhibit E6. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

36. An article by NGO Monitor entitled *Changes in NIF Grants 2013* (June 23, 2014), available at

https://www.ngo-monitor.org/reports/changes_in_nif_grants/

A true and correct copy of the document is attached as Exhibit E7. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

37. An article by NGO Monitor entitled *Update on New Israel Fund (NIF) April 2012* (April 30, 2012), available at

https://www.ngo-monitor.org/reports/update_on_new_israel_fund_nif_april/

A true and correct copy of the document is attached as Exhibit E8. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

38. An article by NGO Monitor entitled *NIF 2011 Funding: One Step Forward, One Step Back* (August 31, 2012), available at

https://www.ngo-monitor.org/reports/nif_funding_one_step_forward_one_step_back/

A true and correct copy of the document is attached as Exhibit E9. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

39. An article by NGO Monitor entitled *Changes in NIF Funding 2010 Grants* (September 7, 2011), available at

https://www.ngo-monitor.org/reports/changes_in_nif_funding_grants/

A true and correct copy of the document is attached as Exhibit E10. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

40. An article by NGO Monitor entitled *NIF 2010 Financial Report: CWP Continued to Receive Funds, Despite Denials* (July 31, 2011), available at

https://www.ngo-monitor.org/reports/nif_financial_report_cwp_continued_to_receive_funds_despite_denials

a true and correct copy of which is attached as Exhibit E11. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

41. An online profile on Mossawa maintained by the watchdog group “NGO Monitor,” which republishes via hyperlink NIF’s annual financial reports from the years 2008 to 2013, among others. The page is available at

<https://www.ngo-monitor.org/ngos/mossawa/#funding>

and a true and correct copy of the page is attached as Exhibit E12. *See* Am. Compl. ¶¶ 25, 28–31, 34 (NIF grants).

“F” Exhibits

42. An article by NIF entitled *Kahanism Has No Place in the Knesset* (March 7, 2019), available at

<https://www.nif.org/stories/human-rights-democracy/kahanism-has-no-place-in-the-knesset/>

a true and correct copy of which is attached as Exhibit F1. *See* Am. Compl. ¶¶ 24–25.

43. A tweet by NIF on March 1, 2019 advertising a petition to keep Kahanists off of the ballot in the 2019 Knesset elections, available at

<https://twitter.com/NewIsraelFund/status/1101541313781121024>

a true and correct copy of which is attached as Exhibit F2. *See* Am. Compl. ¶ 24.

44. An article by NIF entitled *Kahanist Politician Banned from Running in Elections* (March 21, 2019), available at

<https://www.nif.org/stories/human-rights-democracy/kahanist-politician-banned-from-running-in-elections/>

a true and correct copy of which is attached as Exhibit F3. *See* Am. Compl. ¶ 24.

45. A Facebook post by the Israel Religious Action Center (IRAC) sharing a video “about the danger of the Otzma Yehudit Party,” Am. Compl. ¶ 25, available at

<https://www.facebook.com/327408953943164/videos/239770686970367>

a true and correct copy of which is attached as Exhibit F4.

46. A Facebook post by IRAC publicizing its attorney, Ruti Karmi, “arguing before the Israel Supreme Court against the appeal of Baruch Marzel,” Am. Compl. ¶ 27, available at

<https://www.facebook.com/IsraelRAC/photos/a.136134053907/10153059111933908/?type=3>

a true and correct copy of which is attached as Exhibit F5.

47. An article by Adalah entitled *Adalah Files Response to Disqualification Motions* (Nov. 2, 2015), available at

<https://www.adalah.org/en/content/view/8432>

a true and correct copy of which is attached as Exhibit F6. *See* Am. Compl. ¶ 28.

48. A tweet by The Mossawa Center “attack[ing] a sign from Jewish Home Campaign as racist,” Am. Comp. ¶ 29, available at

<https://twitter.com/MossawaCenter/status/1052201166224781313>

a true and correct copy of which is attached as Exhibit F7.

49. A tweet by The Mossawa Center “sa[ying] that Likud wants the Israeli’s [sic] to decide between a fascist society and a pluralistic society,” Am. Compl. ¶ 29, available at

<https://twitter.com/MossawaCenter/status/1048033948692074496>

a true and correct copy of which is attached as Exhibit F8.

50. A Facebook post by Adam Teva publicizing its candidate “pledge to follow a certain protocol to preserve trees,” Am. Compl. ¶ 30, available at

<https://www.facebook.com/adamtevavdin/photos/a.200050883361355/2164491160250641/>

a true and correct copy of which is attached as Exhibit F9.

51. An article by NIF publicizing its “New Initiatives for Democracy,” available at

<https://www.nif.org/our-issues/new-initiatives-for-democracy/>

a true and correct copy of which is attached as Exhibit F10. *See* Am. Compl. ¶ 32.

52. An article by NIF entitled *New Initiatives for Democracy: Our Strategies* (May 18, 2015), available at

<https://www.nif.org/stories/new-initiatives-for-democracy/new-initiatives-for-democracy-our-strategies/>

a true and correct copy of which is attached as Exhibit F11. *See* Am. Compl. ¶ 33.

53. The “News” page of the website for the Council for Peace and Security (also known as the Peace and Security Association), which highlights coverage of its activities, available at

<http://www.peace-security.org.il/news/list/2/1/%D7%97%D7%93%D7%A9%D7%95%D7%AA.aspx>

a true and correct copy of which is attached as Exhibit F12. *See* Am. Compl. ¶ 34.

“G” Exhibits

54. An article in the Israeli newspaper *Haaretz* regarding the petition mentioned in the Amended Complaint, available at

<https://www.haaretz.com/us-news/.premium-u-s-jewish-groups-condemn-decision-not-to-ban-far-right-party-from-israeli-election-1.6999774>

a true and correct copy is attached as Exhibit G1. *See* Am. Compl. ¶ 24.

55. An article in *The Jerusalem Post* reporting on Adalah’s involvement in the legal dispute over Haneen Zoabi’s ballot eligibility. The article is available at

<https://www.jpost.com/israel-elections/zoabi-marzel-back-in-the-race-high-court-rules-391415>

and a true and correct copy is attached as Exhibit G2. *See* Am. Compl. ¶ 28.

56. An article published in the Israeli newspaper *Haaretz* regarding NIF’s “New Initiatives for Democracy” campaign. The article is available at

<https://www.haaretz.com/jewish/.premium-2m-nif-campaign-promotes-democracy-in-israel-1.5302566>

and a true and correct copy is attached as Exhibit G3. *See* Am. Compl. ¶¶ 32–33.

57. An article from +972 *Magazine* reporting on the Council for Peace and Security (a/k/a the Peace and Security Association). The article is available at

<https://www.972mag.com/were-not-stuck-with-palestinians-were-stuck-in-our-own-fear/>

and a true and correct copy is attached as Exhibit G4. *See* Am. Compl. ¶ 29.

Executed on August 25, 2020

/s/ J. Emmett Murphy

J. Emmett Murphy